THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 11277 of 1995

Between:

P.Venkata Reddy …. Petitioner

And

1. The Special Officer,

Rompicherla PACS Ltd

Guntur District & 2 others …. Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 11277 of 1995

ORDER:

Questioning the action of the 3rd respondent in requesting the 1st respondent to cancel the orders appointing the petitioner, the Accountant of the 1st respondent – society, as the Secretary of the society, the present writ petition is filed.

In the proceedings dated 30.5.1995, it is stated that the Special Officer, vide letter dated 1.4.1995, had sought ratification of the District Cooperative Officer,

Guntur of his resolution dated 1.4.1995 whereby the petitioner, an Accountant in the Society, was promoted as the Secretary and his pay was enhanced from Rs.1200/- to Rs.1500/- per month.

Sri S.Siva Prasad, learned counsel for the petitioner, would refer to the special byelaws relating to service conditions of employees of Primary Agricultural Cooperative Societies to contend that appointment to the post of Secretary is both by way of direct recruitment and by way of promotion. Learned counsel would submit that in case of direct recruitment to the post of Secretary, appointments are to be made by the Managing Committee, on the recommendations of the District Level Committee, whereas in the case of promotion of employees, who have been working as Accountant in the Society and who possess the qualification prescribed and are eligible for promotion to the post of Secretary, the Managing Committee is competent to select employees for promotion keeping in view their suitability to the post and the President of the Society is empowered to issue appointment orders. Learned counsel would further submit that since appointment to the post of secretary is both by way of direct recruitment and by way of promotion, the requirement under Section 116-C(2) of the A.P. Cooperative Societies Act, 1964 wherein prior approval of the Registrar of Cooperative Societies is required to be obtained for appointment of a Chief Executive of the Society, would apply only in the case of appointment by direct recruitment and not by way of promotion. Learned counsel would submit that since appointment of the petitioner as an Accountant had earlier been ratified by the Divisional Cooperative Officer, no further approval was required when he was promoted to the higher post of Secretary. Learned counsel would place reliance on the judgment of this court in **A.Rangareddy v. Cooperative Electric Supply Society, Karimnagar** in this regard.

A detailed counter affidavit is filed by the District Cooperative Officer wherein it is specifically stated that appointment of Secretaries in Primary Agricultural Cooperative Societies is to be regulated as per the provisions of Section 116-C of the A.P. Cooperative Societies Act. It is stated that the Special Officer is not competent and is not vested with the powers to promote the petitioner from the category of Accountant to the post of Secretary straightaway and that the Secretaries from the common cadre have to be absorbed in such vacancies for

which the society has to seek candidates from the District Level Committee. It is also stated that while the Committee of the Society is the competent authority for appointment of Accountant, Clerk and Attenders and even for promotions, this right can only be exercised with the prior approval of the Registrar as laid down in Section 116-C of the A.P. Cooperative Societies Act. It is further stated that the powers under Section 116-C, relating to Primary Agricultural Cooperative Societies, are delegated to the District Cooperative Officer and he is empowered to set right the illegal acts, omissions and commissions of the Committees of Primary Agricultural Cooperative Societies.

Before examining the contentions urged on behalf of the petitioner, it is necessary to refer to Section 116-C of the A.P. Cooperative Societies Act which reads as under:

"**116-C. Staffing pattern of societies**:- (1) A society shall have power to fix the staffing pattern, qualification, pay scales and other allowances for its employees with the prior approval of the

Registrar of Cooperative Societies;

(2) No appointment or removal of a Chief Executive by whatever name called of any society, or class of societies as may be prescribed which are in receipt of financial aid from the Government, shall be made without the prior approval of the Registrar of Cooperative Societies."

It is not in dispute that the Secretary of the Primary Agricultural Cooperative Society is the Chief Executive of the Society and as such the provisions of Section 116-C (2) apply. As noted above the contention of Sri S.Siva Prasad, learned counsel for the petitioner, is that prior approval, under Section 116-C(2), of the Registrar of Cooperative Societies is required only in case of appointment by direct recruitment to the post of Secretary and not where an Accountant of the Society is promoted to the post of Secretary. I am afraid I cannot agree. It is well settled that appointment to a post can either be by way of direct recruitment, by promotion or by transfer. Whatever may be the mode of selection and appointment, eventually a person is appointed to a post. In the present case, the petitioner was appointed as Secretary, by promotion from the post of Accountant. Section 116-C(2) governs all appointments made to the post of Chief Executive of a society and as such the petitioner could not

have been promoted as Secretary of the 1st respondent – Society without prior approval of the Registrar of Cooperative Societies.

Reliance by the petitioner on **A.Rangareddy**[1] is misplaced. In the said case creation of posts of Assistant Divisional Engineers and promotion of certain employees to the said posts was in issue. The posts of Assistant Divisional Engineers are not Chief Executive posts and as such are not governed by the provisions of Section 116-C(2) of the Act. The stipulation, under Section 116-C(2), was not in issue in **A.Rangareddy**[1] and as such the said judgment has no application to the case on hand.

It is not in dispute that prior approval of the Registrar of Cooperative societies has not been obtained while promoting the petitioner, an Accountant in the Society, to the post of Secretary of the 1st respondent – Society. The impugned order does not, therefore, call for any interference.

The writ petition fails and is accordingly dismissed. However, in the circumstance, without costs.

_____

12-6-2006

asp